

HOUSE BILL 74

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E4

2000 Regular Session
0lr0628

(PRE-FILED)

By: **Delegate Kagan**
Requested: October 4, 1999
Introduced and read first time: January 12, 2000
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Regulated Firearms - Purchase, Rent, or Transfer - Application Process**

3 FOR the purpose of altering the method that certain persons who sell, rent, or
4 transfer regulated firearms are required to use for processing applications for
5 the sale, rent, or transfer of regulated firearms; providing that certain
6 requirements in the processing of applications for the sale, rent, or transfer of
7 regulated firearms be completed within a certain time period; providing for a
8 certain exception; making a technical correction; and generally relating to the
9 purchase, renting, or transfer of regulated firearms.

10 BY repealing and reenacting, with amendments,
11 Article 27 - Crimes and Punishments
12 Section 442
13 Annotated Code of Maryland
14 (1996 Replacement Volume and 1999 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article 27 - Crimes and Punishments**

18 442.

19 (a) All restrictions imposed by the laws, ordinances or regulations of all
20 subordinated jurisdictions within the State of Maryland on sales of regulated
21 firearms are superseded by this section, and the State of Maryland hereby preempts
22 the rights of such jurisdictions to regulate the sale of regulated firearms.

23 (b) (1) Except as otherwise provided in this subsection, a person may not
24 knowingly or willfully participate in a straw purchase of a regulated firearm.

25 (2) The prohibitions of this subsection do not apply to a person
26 purchasing a regulated firearm as a gift provided:

27 (i) The recipient of the gift is a resident of this State; and

1 (ii) Both the purchaser and recipient of the gift comply with the
2 requirements under this subheading pertaining to the possession, sale, rental,
3 receipt, transfer, or purchase of a regulated firearm, unless the gift is in the form of a
4 gift certificate, in which case only the recipient shall comply with the requirements.

5 (3) If the regulated firearm is a gift to a spouse, parent, grandparent,
6 grandchild, brother, sister, son, or daughter:

7 (i) An application to purchase or transfer a regulated firearm shall
8 be completed by the recipient and forwarded to the Secretary within 5 days of receipt
9 of the regulated firearm; and

10 (ii) The \$10 application fee, as provided by subsection [(g)] (F) of
11 this section, shall be waived by the Secretary.

12 (c) No regulated firearms dealer shall sell, rent, or transfer any regulated
13 firearm until after seven days shall have elapsed from the time an application to
14 purchase or transfer shall have been executed by the prospective purchaser or
15 transferee, in triplicate, and the original copy is forwarded by the prospective seller or
16 transferor to the Secretary.

17 (d) (1) A person who is not a regulated firearms dealer may not sell, rent,
18 transfer, or purchase any regulated firearm until after 7 days shall have elapsed from
19 the time an application to purchase or transfer shall have been executed by the
20 prospective purchaser or transferee, in triplicate, and the original copy is forwarded
21 by a regulated firearms dealer to the Secretary.

22 (2) As an alternative to completing a secondary sale of a regulated
23 firearm through a regulated firearms dealer, the prospective seller or transferor and
24 the prospective purchaser or transferee may complete the transaction through a
25 designated law enforcement agency.

26 (3) A person who makes an application to purchase, rent, or transfer a
27 regulated firearm by secondary sale shall pay a processing fee not to exceed \$20 to the
28 regulated firearms dealer.

29 (e) (1) [The] EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS
30 SUBSECTION, THE regulated firearms dealer or designated law enforcement agency
31 shall [promptly after receiving], PRIOR TO THE END OF THE BUSINESS DAY ON
32 WHICH an application to purchase, rent, or transfer, completed in accordance with
33 subsection (h) below IS RECEIVED, forward one copy of the same, [by certified mail
34 or] by facsimile machine, to the Secretary. The copy forwarded to the Secretary shall
35 contain the name, address, and signature of the prospective seller, lessor, or
36 transferor. The prospective seller, lessor, or transferor shall retain one copy of the
37 application for a period of not less than three years. The prospective purchaser, lessee,
38 or transferee shall be entitled to the remaining copy of the application.

39 (2) A REGULATED FIREARMS DEALER OR DESIGNATED LAW
40 ENFORCEMENT AGENCY THAT RECEIVED NOT MORE THAN FIVE APPLICATIONS TO
41 PURCHASE, RENT, OR TRANSFER A REGULATED FIREARM WITHIN THE PRECEDING

1 CALENDAR YEAR SHALL PROMPTLY AFTER RECEIVING AN APPLICATION TO
2 PURCHASE, RENT, OR TRANSFER, COMPLETED IN ACCORDANCE WITH SUBSECTION
3 (H) OF THIS SECTION, FORWARD ONE COPY OF THE APPLICATION, BY CERTIFIED
4 MAIL OR BY FACSIMILE MACHINE, TO THE SECRETARY. THE COPY FORWARDED TO
5 THE SECRETARY SHALL CONTAIN THE NAME, ADDRESS, AND SIGNATURE OF THE
6 PROSPECTIVE SELLER, LESSOR, OR TRANSFEROR. THE PROSPECTIVE SELLER,
7 LESSOR, OR TRANSFEROR SHALL RETAIN ONE COPY OF THE APPLICATION FOR A
8 PERIOD OF NOT LESS THAN 3 YEARS. THE PROSPECTIVE PURCHASER, LESSEE, OR
9 TRANSFEREE SHALL BE ENTITLED TO THE REMAINING COPY OF THE APPLICATION.

10 (f) (1) A person who makes an application to purchase, rent, or transfer a
11 regulated firearm shall pay to the regulated firearms dealer or designated law
12 enforcement agency a \$10 application fee with the application to purchase, rent, or
13 transfer.

14 (2) The regulated firearms dealer or designated law enforcement agency
15 shall forward the \$10 application fee along with the application to the Secretary.

16 (3) If the regulated firearms dealer or designated law enforcement
17 agency utilizes a facsimile machine to forward the application to the Secretary, the
18 dealer or designated law enforcement agency shall:

19 (i) Be billed \$10 for each application forwarded to the Secretary
20 during the month; and

21 (ii) Pay the total application fee by the 15th day of the next month.

22 (g) The application to purchase, rent, or transfer shall bear the following
23 legend: "Any false information supplied or statement made in this application is a
24 crime which may be punished by imprisonment for a period of not more than three
25 years, or a fine of not more than \$5,000, or both."

26 (h) The application to purchase, rent, or transfer shall contain the following
27 information:

28 (1) Applicant's name, address, driver's or photographic identification
29 soundex number, Social Security number, occupation, place and date of birth, height,
30 weight, race, eye and hair color and signature and regulated firearm information for
31 each firearm to be purchased, rented, or transferred. In the event the applicant is a
32 corporation, the application shall be completed and executed by a corporate officer
33 who is a resident of this State.

34 (2) A statement by the applicant under the penalty of perjury that he or
35 she:

36 (i) Has never been convicted of:

37 1. A crime of violence;

38 2. Any violation classified as a felony in this State;

1 (j) (1) No regulated firearms dealer or person shall sell, rent, or transfer a
2 regulated firearm to an applicant whose application has been placed on hold because
3 of an open disposition of criminal proceedings against the applicant or disapproved,
4 unless such disapproval has been subsequently withdrawn by the Secretary or
5 overruled by the action of the courts pursuant to subsection (k) of this section.

6 (2) An approved application is valid only for the purchase, rental, or
7 transfer of the regulated firearm listed in the application.

8 (k) (1) Any prospective purchaser, lessee, or transferee aggrieved by the
9 action of the State Police may request a hearing within 30 days from the date when
10 written notice was forwarded to the aggrieved person by writing to the Secretary, who
11 shall grant the hearing within fifteen days of the request.

12 (2) The hearing and subsequent proceedings of judicial review, if any,
13 thereupon following shall be conducted in accordance with the provisions of the
14 Administrative Procedure Act.

15 (3) The hearing shall be held in the county of the legal residence of the
16 aggrieved person.

17 (l) Any regulated firearms dealer or person who sells, rents, or transfers a
18 regulated firearm in compliance with this subtitle shall forward a copy of the written
19 notification of such completed transaction, within seven days from the date of
20 delivery of the regulated firearm, to the Secretary, whose duty it shall be to maintain
21 a permanent record of all such completed sales, rentals, and transfers of regulated
22 firearms in the State. The notification shall contain an identifying description of the
23 regulated firearm sold, rented, or transferred including its caliber, make, model,
24 manufacturer's serial number, if any, and any other special or peculiar characteristics
25 or marking by which the regulated firearm may be identified.

26 (m) (1) A regulated firearms dealer or person shall complete the sale, rental,
27 or transfer of a regulated firearm within 90 days of the date the application of the
28 prospective purchaser, lessee, or transferee was stamped by the Secretary as not
29 being disapproved.

30 (2) A regulated firearms dealer or person shall within 7 days, return to
31 the Secretary any application for which the sale, rental, or transfer of a regulated
32 firearm was not completed within 90 days of the date the application was stamped by
33 the Secretary as not being disapproved. All such applications returned to the
34 Secretary shall be voided as an incomplete sale, rental, or transfer.

35 (n) Nothing in this section shall be construed to affect sales and/or transfers
36 for bona fide resale in the ordinary course of business of a person duly licensed under
37 § 443 of this subtitle, or sales, rentals, transfers, and/or the use of regulated firearms
38 by any person authorized or required to sell, rent, transfer, and/or use regulated
39 firearms as part of his or her duties as a member of any official police force or other
40 law enforcement agency, the armed forces of the United States, including all official
41 reserve organizations, or the Maryland National Guard.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2000.